

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

CAROLYN FRANKLIN,

Plaintiff,

v.

ACE CASH EXPRESS, INC.,

Defendant.

Civil Action No.

Jury Trial Demanded

COMPLAINT

CAROLYN FRANKLIN (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against ACE CASH EXPRESS, INC. (“Defendant”):

INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Telephone Consumer Protection Act, 47 U.S.C. Sec. 227, *et seq.* (“TCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the State of Tennessee therefore personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Memphis, Tennessee.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation with its principal place of business located at 1235 Greenway Drive, Suite 600, Irving, Texas 75038.

8. Defendant is a “person” as that term is defined by 47 U.S.C. § 153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has had the same cellular telephone number for more than a year.

11. Plaintiff has only used the number as a cellular telephone.

12. Beginning on or around January 2016, and continuing through April 2016, Defendant placed repeated telephone calls to Plaintiff’s cellular telephone number for a third party named Trent Tucker.

13. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system and/or pre-recorded voice.

14. Plaintiff knew Defendant was using an automatic telephone dialing system and/or pre-recorded voice as the calls would begin with a pre-recorded message.

15. Defendant’s telephone calls were not made for “emergency purposes,” rather Defendant was attempting to contact a third party named Trent Tucker.

16. In January 2016, Plaintiff told Defendant it was calling the wrong number and revoked any consent that may have been previously given.

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2 WHEREFORE, Plaintiff, CAROLYN FRANKLIN, respectfully prays for judgment as
3 follows:

- 4 a. All actual damages suffered pursuant to 47 U.S.C. §227(b)(3)(A);
5 b. Statutory damages of \$500.00 per violative telephone call pursuant to 47
6 U.S.C. §227(b)(3)(B);
7 c. Treble damages of \$1,500 per violative telephone call pursuant to 47 U.S.C.
8 §227(b)(3);
9 d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3);
10 e. Any other relief deemed fair and proper by this Honorable Court.
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13 **DEMAND FOR JURY TRIAL**

14 PLEASE TAKE NOTICE that Plaintiff, CAROLYN FRANKLIN, demands a jury trial
15 in this case.
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17 Respectfully submitted,
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19 DATED: June 10, 2016

20 By: /s/ Amy Lynn Bennecoff Ginsburg
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